Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	
Compensation Regime	)	CC Docket No. 01-92
	)	
	)	

REPLY COMMENTS OF
THE NEW JERSEY DIVISION OF RATE COUNSEL

RONALD K. CHEN
PUBLIC ADVOCATE

SEEMA M. SINGH, ESQ.
DIRECTOR AND
RATE COUNSEL

Division of Rate Counsel
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07101
(973) 648-2690 - Phone
(973) 624-1047 – Fax
www.rpa.state.nj.us
njratepayer@rpa.state.nj.us

On the Comments:

Christopher J. White, Esq.
Deputy Public Advocate

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I. INTRODUCTION

The New Jersey Division of Rate Counsel ("Rate Counsel") hereby responds to the initial comments submitted in response to the Public Notice issued by the Federal Communications Commission ("FCC" or "Commission") in the above referenced proceeding regarding the National Association of Regulatory Utility Commissioners' ("NARUC") Task Force on Intercarrier Compensation ("NTFIC") intercarrier compensation reform plan (the "Missoula Plan") filed with the Commission on July 24, 2006.[1] In this proceeding, the Commission seeks to replace the various existing intercarrier compensation regimes "with a unified arrangement that accommodates

[1] / *Comment Sought on Missoula Intercarrier Compensation Reform Plan*, Public Notice, CC Docket No. 01-92, DA 06-1510 (WCB, July 25, 2006). *See* 71 Fed. Reg. 45510. Subsequently, the Wireline Competition Bureau extended the deadline for filing reply comments. CC Docket No. 01-92, *Order,* DA 06-2577, released December 22, 2006; NARUC Task Force on Intercarrier Compensation, *The Missoula Plan for Intercarrier Compensation Plan, July 18, 2006*, filed as a written *ex parte* in CC Docket No. 01-92, July 24, 2006 ("Missoula Plan").

competition and new technologies."[2] Among the FCC's goals in this proceeding are competitive and technology neutrality, preservation of universal service, compatibility of any proposal with the FCC's legal authority to implement such a plan, and economic efficiency.[3] Initial comments demonstrate thoroughly and unambiguously that the Missoula Plan would thwart each of these goals.[4] As the initial comments amply demonstrate, the Missoula is fundamentally and fatally flawed. The Missoula Plan would shift any conceivable burden, cost, and/or risk to consumers, while insulating incumbent carriers from the vagaries of the market.

Rate Counsel reiterates its initial recommendation that the Commission not squander any more administrative resources in considering the Missoula Plan,[5] and, furthermore, that the Commission not even consider using the Missoula Plan as a foundation for future discussion. The Missoula Plan is riddled with so many deficiencies that it would be a pointless exercise to seek to modify the plan to transform it into a solution for intercarrier compensation. The Missoula Plan's hoopla exaggerates its usefulness. The Commission should reject the Missoula Plan and instead use NASUCA's more reasonable proposal as a starting point for discussion.

Based on its review of initial comments, Rate Counsel reiterates the concerns it raised in initial comments:

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[2] / *In the Matter of Developing a Unified Intercarrier Compensation Regime*, FCC CC Docket No. 01-92, *Further Notice of Proposed Rulemaking*, Released March 3, 2005 ("Intercarrier Compensation FNPRM" or FNPRM"), at para. 1.

[3] / *Id.*, at paras. 31-33.

[4] / *See, e.g.*, NCTA, at 6 stating that "the Missoula Plan fails to achieve any of the goals identified by the Commission in the *Intercarrier Compensation* FNPRM." *See, also*, Cavalier, at 2-4.

[5] / Rate Counsel, at 5.

- As the initial comments demonstrate, reforming intercarrier compensation does not require dollar-for-dollar "revenue recovery" for the incumbent local exchange carriers ("ILEC"): the Commission should reject the ill-conceived objective of the Missoula Plan proponents to insulate incumbents from the impact of emerging competition and evolving technology.
- The Missoula Plan fails to achieve the Commission's objective to unify rates and instead creates new opportunities for arbitrage.
- Rate Counsel continues to support efforts to address phantom traffic and agrees that all carriers should pay their fair share for use of the network. However, the Commission should refrain from adopting an industry "solution" that includes a policy determination regarding the applicability of access charges to VoIP traffic. As commenters have amply demonstrated, statements regarding imminent harm are speculative and inflated. The Commission must adopt clear policy with respect to the applicability of access charges to VoIP traffic.
- The lack of consumer endorsement of the Missoula Plan provides compelling evidence that the plan would harm consumers.[6] The Missoula Plan would increase basic local exchange rates despite declining costs and despite the purportedly competitive market.

[6] / In initial comments, Rate Counsel faulted the process that yielded the Missoula Plan for purportedly excluding consumer representation. Rate Counsel understands that consumer representatives participated in early Missoula Plan meetings. However, the fact that ultimately these consumer advocates did not endorse the Missoula Plan suggests that the plan's proponents failed to address adequately consumer concerns. The National Association of State Utility Consumer Advocates participated in the Task Force proceedings, but did not participate in the development of the Missoula Plan.

- The Missoula Plan would harm all consumers, and would harm particularly the working poor, who do not qualify for Lifeline programs; low-income customers who are eligible for but do not participate in Lifeline programs; consumers residing in rural communities; and low-volume consumers. These customers are precisely the consumers who are least likely to have access to emerging competitive alternatives.
- The Missoula Plan would unnecessarily increase the high cost fund.
- The proposed subscriber line charge ("SLC") pricing flexibility would invite pricing discrimination by ILECs, which would thwart the Commission's goal of competitive neutrality and which would harm the most vulnerable customers.
- Despite its complexity, the Missoula Plan filing lacks cost data and other supporting documentation.
- The Missoula Plan would improperly usurp states' ratemaking authority.
- The Missoula Plan does not merit further attention, and indeed is a distraction from more pressing matters.
- The Commission should adopt a more gradual plan for unifying intercarrier compensation that does not penalize consumers nor insulate incumbents from the impact of competition.

Based on its review of initial comments, Rate Counsel reiterates its recommendation:

> The Commission should afford the Missoula Plan minimal weight and instead allocate its resources and expertise toward correcting the flaws in the separations process and establishing just and reasonable rates for interstate special access. Rate Counsel supports fully the Commission's

> objective to unify the disparate intercarrier compensation schemes, but the Missoula Plan does not merit consideration.[7]

Opposition to the Missoula Plan is broad-based,[8] and, as such, the Commission should not expend further resources considering the plan, but instead should focus on solutions for the pressing concerns regarding phantom traffic and access charges for communications using Internet protocol ("IP") technology and adopting an intercarrier compensation plan that does not seek to make carriers whole by shifting the burden to consumers.

II. MISSOULA PLAN FLAWS

The Missoula Plan would jeopardize the Commission's goal of competitive neutrality.

The Missoula Plan favors incumbent local exchange carriers, and, therefore, is not competitively neutral.

The Missoula Plan's complexities and details obfuscate the fact that the plan would improperly insulate incumbent carriers from competition, guaranteeing them an historic stream of revenues that bears no relationship to (1) the changing pattern of consumers' use of the telecommunications network; (2) declining costs in the telecommunications industry; and (3) the incentives for cost-cutting and efficiency that competition should yield. This guarantee of revenues for the ILECs comes at the expense of competitive local exchange carriers ("CLEC") and consumers.

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7 / Rate Counsel, at 5.

8 / *See, e.g.,* Ad Hoc Telecommunications Users Committee ("Ad Hoc"), Verizon, Illinios Attorney General, CTIA, Connecticut Department of Public Utility Control, Time Warner Telecom, Inc. (TWTC), Cbeyond, Inc. (Cbeyond), and Xspedius Communications, Inc. (Xspedius) ("TWTC/Cbeyond/Xspedius"), Cavalier Telephone LLC, McLeodUSA Telecommunications Services, Inc., Norlight Telecommunications, Inc., Pac-West Telecomm, Inc., and RCN Corporation ("Cavalier et al"), Core Communications, Inc., COMPTEL, National Association of State Utility Consumer Advocates ("NASUCA").

The Ohio Public Utility Commission explains that ILECs win on two fronts:

> On one side of the equation, then, Track 1 ILECs receive the benefit of reduced costs, while on the other side, they do not risk any decrease in revenue, nor do they have to offset this revenue against their cost savings. This design element of the Plan is especially beneficial to those companies that own both a large Track 1 ILEC and a large IXC. Such companies will benefit from the cost savings realized by both their ILEC and IXC, yet they will be able to maintain ILEC revenues through an increase in the SLC and the ability to tap into the Recovery Mechanism.[9]

Sprint Nextel argues that the Plan benefits ILECs at the expense of CLECs by including "numerous asymmetric rights and obligations which clearly fail the competitive neutrality test."[10] The Ohio Public Utility Commission elaborates that while ILECs can raise the SLC in an area where there are few competitors, while leaving the SLC lower in areas where they face possible competition, CLECs, by definition, face competition everywhere. Thus, CLECs must choose either to raise the SLC in order to recover costs, and face the prospect of losing customers, or accept the lost revenues as a cost of doing business.[11] Eschelon argues that the framers of the Missoula Plan also failed to consider the constraints that new market entrants face. Specifically, the Missoula Plan treats new CLECs as Track 1 ILECs, when, in fact, they more closely resemble rural carriers.[12]

However, even *among* ILECs, the Missoula Plan creates competitive distortions. For example, Verizon expresses concern that the Plan favors mid-size and rural ILECs over large ILECs by allowing the former to impose much higher access charges than the

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9 / Ohio Public Utility Commission ("OH PUC"), at 34.

10 / Sprint Nextel, at 31.

11 / OH PUC, at 32. *See also* Texas Office of Public Utility Counsel, Consumer Federation of America, and Consumers Union Office of Public Utilities ("TX PUC"), at 6.

12 / Eschelon, at 5.

latter. Verizon argues that, in some cases, the Missoula Plan would even exacerbate the existing differences in charges.[13]

As described by commenters, the Missoula Plan "stacks the deck for incumbent LECs"[14] and is "intended to preserve (if not increase) incumbent ILEC revenues."[15] As another CLEC states, "At the heart of the Missoula Plan is the unsupported assumption that incumbent LECs have an inalienable right to 'revenue neutrality' – meaning regulatory protection of their revenues[16] . . . Any so-called 'reform' plan that seeks to confer permanent advantages on incumbent voice providers would have a devastating impact on facilities-based competition that is finally emerging."[17] As clearly is articulated in initial comments, the Missoula Plan improperly guarantees incumbent carriers "revenue neutrality" and the Restructure Mechanism is flawed.[18]

The Missoula Plan would memorialize excessive revenue streams.[19] Despite the declining trend in minutes of use and access lines, the Missoula Plan would guarantee ILECs revenues corresponding with an earlier pattern of traffic and demand that no longer exist. Meanwhile, in its calculation of the revenue that is purportedly necessary for the ILECs, the Missoula Plan proponents neglect to include the significant revenue

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13 / Verizon, at 7-10.

14 / Time Warner Cable, at 2

15 / NCTA, at 7; *see also,* NCTA, at 18; Illinois AG, at 2.

16 / Time Warner Cable, at 2.

17 *Id.*, at 4.

18 / *See, e.g.,* Time Warner Cable, at 21-28; Cavalier, at 4-7, 10-11; Ad Hoc, at 8-13.

19 / NASUCA, at 23-24. *See*, *also*, Ad Hoc, at 8-13.

stream from broadband and other services.[20] The Missoula Plan amounts to a "wealth transfer from end-users, CLECs, and wireless carriers to ILECs."[21] CLECs contribute to a fund to make ILECs whole from which only ILECs can draw.[22] These concerns raised in initial comments demonstrate that the Missoula Plan violates the Commission's goal of competitive neutrality.

The Missoula Plan is a "slush fund" for ILECs and, therefore, would thwart the Commission's goal of competitive neutrality.

One flaw of the Restructure Mechanism is that, while it allows ILECs to recover revenues lost to the access charge reform, it does not allow CLECs to recover the same revenues, even though CLECs are forced to absorb the same reductions in revenue.[23] The Restructure Mechanism is, effectively, a "slush fund" for ILECs.

Eschelon states:

> As if it weren't enough to allow ILECs the opportunity to recover lost access revenues at the expense of some customers, while maintaining a competitive advantage with others, via selective use of an increase in SLCs, the Missoula Plan creates a "Restructuring Mechanism" of as much as $1.5 billion or more by the end of the transition period. This Restructuring Mechanism is nothing more than a slush fund into which all carriers will contribute, but out of which only the ILECs appear to be able to draw for replacement of access revenue reductions that are otherwise unrecoverable, or deliberately unrecovered, from increases in SLCs.[24]

Comptel points out that the Missoula Plan devotes ten pages to detailing how ILECs will recover lost revenues from the Restructure Mechanism, while it addresses

[20] / NASUCA, at 23-24. *See also In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, FCC CC Docket No. 80-286, Initial Comments of The National Association of State Utility Consumer Advocates, The New Jersey Division of Rate Counsel, and The Maine Office of the Public Advocate, August 22, 2006.

[21] / TWTC/Cbeyond/Xspedius, at 8.

[22] / *See, e.g., Id.*, at 12.

[23] / Comptel, at 6.

[24] / Eschelon, at 9.

CLECs' benefit with only one vague phrase: "Restructure Mechanism dollars will be available to other carriers in circumstances to be determined in the future."[25] Comptel continues, "If [the Restructure Mechanism] is not available to CLECs, it will provide the ILECs significant cost advantage that will make it difficult, if not impossible, for CLECs to compete."[26]

Furthermore, the restructure support would not be portable. As NASUCA observes, "if the legal basis for the Restructure Mechanism is found in Section 254 of the Act, the funds must be portable and available to all CETCs."[27] Also, as initial comments demonstrate, the Restructure Mechanism fails to take into account the declining landline minutes of use and declining access lines.[28]

The "Edge" Proposal favors ILECs and disadvantages CLECs, and, therefore, jeopardizes the goal of competitive neutrality.

The Missoula Plan also violates the principle of competitive neutrality through its proposed "Edge Proposal." Among other things, as numerous comments thoroughly explain, competitive carriers should not be obligated to deliver traffic that their customers originate all the way to another carrier's edge while rural ILECs do not have the comparable obligation.[29] Eschelon points out that the "Edge" proposal undermines the intent of the Commission by allowing ILECs unilateral decision-making power over where interconnection occurs:

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25 / Comptel, at 6.

26 / *Id.*, at 7.

27 / NASUCA, at 60.

28 / California PUC, at 19-20.

29 / Time Warner Cable, at 17-18; Cavalier, at 21-28.

> As envisioned by the Plan, CLECs could be forced to move their current points of interconnection ("POIs," which currently may be as few as one per LATA) to "edges" that can be designated unilaterally by the ILEC… In order to ensure the most efficient management of physical infrastructure and, thereby, the most efficient use of capital, the Commission long ago recognized that, under the 1996 Act, CLECs have the right to interconnect at any technically feasible point within their networks, including the right to interconnect at a single point of interconnection in a LATA.[30]

The Ohio Public Utility Commission calls the "Edge" proposal "a solution in search of a problem."[31] The Missoula Plan's "edge" proposal is inefficient, anticompetitive, and is inconsistent with the requirements of section 251(c)(2).[32]

The Missoula Plan would thwart the Commission's goal of universal service.

The Missoula Plan would increase unnecessarily and improperly the high cost fund, jeopardizing the goal of universal service.

Rate Counsel concurs with NASUCA's characterization that "the various changes proposed for the existing USF High Cost Fund have little if any relationship to intercarrier compensation reform, and amount to nothing less than a grab-bag of goodies for particular carriers or classes of carriers."[33] As NASUCA states, the Missoula Plan's estimate of a proposed increase of $2.25 billion to the federal universal service fund is likely a gross underestimate.[34] NASUCA estimates a revised increase to the USF of $2.8 billion.[35]

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[30] / Eschelon, at 7 (footnote omitted).

[31] / Ohio PUC, at 24.

[32] / Time Warner Telecom, at 16-19. *See also*, NCTA, at 14-17. Section 251(c)(2) requires ILECs to provide interconnection "for the transmission and routing of telephone exchange service and exchange access." 47 U.S.C.§§ 251(c)(2). Also *see* concerns raised by the Florida Public Service Commission about the anticompetitive nature of the Edge Proposal, at 7.

[33] / NASUCA, at 59.

[34] / *Id.*, at 59, footnote 109.

[35] / *Id.*, at 75.

New York regulators caution that "federal universal service funding not be used as a mechanism to shield significant portions of the Incumbent Local Exchange Carriers' (ILECs) revenues from competitive erosion."[36] California regulators observe that there is no incentive for high cost recipients to control their costs.[37] In addition, Sprint Nextel argues that the proposal "will increase the USF burden by unspecified hundreds of millions of dollars at a time when the viability of the USF under existing rules is already threatened."[38] South Carolina regulators recommend that a sunset provision be included with any cost support mechanism that is implemented.[39]

The initial comments in support of the Missoula Plan do not rebut Rate Counsel's analysis demonstrating that until carriers properly assign and allocate common costs, there should not be any increase in high cost support.[40] Consumers of regulated services are subsidizing at least $19 billion and as much as $60 billion relating to carriers' pursuit of DSL and other unregulated services.[41] Furthermore, consumers of intrastate regulated services are subsidizing interstate special access services.[42]

The Plan's scant detail regarding rules for contributing to the Restructure Mechanism confounds efforts by Rate Counsel to calculate the likely additional financial burden on New Jersey ratepayers as a consequence of implementation of the Missoula

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[36] / New York State Department of Public Service ("NYDPS"), at 2.

[37] / California PUC, at 17.

[38] / Sprint Nextel, at 25.

[39] / South Carolina ORS, at 4.

[40] / See Rate Counsel, at 21-23.

[41] / *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, FCC CC Docket No. 80-286, Reply Comments of The National Association of State Utility Consumer Advocates, The New Jersey Division of Rate Counsel, and The Maine Office of the Public Advocate, November 20, 2006, at 31-34.

[42] / *Id.*

Plan. Lacking any information to the contrary, Rate Counsel assumes that the contributions of New Jersey would be similar to its responsibility with respect to the Universal Service Fund: New Jersey likely would become a net contributor to the Missoula Plan slush fund, thus disproportionately subsidizing a stream of guaranteed revenues for ILECs.

The Missoula Plan would *increase* the universal service fund precisely at a time when "a fundamental examination of the efficacy of and need for" the funds "is long overdue."[43] As aptly stated by NCTA, the "Commission should resist any new universal service funding mechanism that would shelter ILECs from these market forces."[44]

As observed in initial comments, the Missoula Plan's increases in the universal service fund, imposed on end users, could actually threaten universal service.[45] Furthermore, the Commission should heed the Illinois Attorney General's concern that the Missoula Plan's use of the USF "violates the purpose of the fund, and violates the public interest."[46] Rate Counsel urges the Commission to heed the numerous concerns raised about the Missoula Plan's proposed significant increase in universal service funding.[47]

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43 / Time Warner Cable, at 11.

44 / NCTA, at 19.

45 / Time Warner Telecom, at 10, Cavalier, at iii.

46 / Illinois Attorney General, at 5.

47 / *See, e.g.*, Cavalier, at 35-37, stating, among other things, that the Missoula Plan "is a frank proposal to create a government-sponsored subsidy for ILECs over and above anything necessary to promote universal service, especially with respect to BOCs." *Id.*, at 37. *See also*, California PUC, at 8; The Mid-Atlantic Conference of Regulatory Utility Commissioners and State Commissioners of the MACRUC States ("MACRUC"), at 3-4; Illinois Attorney General, at 5.

The Missoula Plan places the entire burden of reform on consumers, and, therefore, jeopardizes universal service.

Although OPASTCO claims that, "the Plan would be beneficial to consumers nationwide – both urban and rural – including the customers of rural ILECs,"[48] numerous parties disagree. OPASTCO's assertion that consumers will see lower rates is unpersuasive:

> In the short term, many consumers would experience an overall decrease in their communications service bills for a given level of usage. In the longer term, the Plan would provide positive incentives for carriers to invest in their networks, enabling them to offer new and advanced services at affordable rates to greater numbers of consumers.[49]

OPASTCO fails to provide any evidence – no promises, no guarantees, no business plans – that ILECs would use their Missoula Plan monies either to lower long distance rates (the nation's erstwhile two largest long distance companies are now owned by ILECs, which further diminishes the prospects for rate reductions) or to invest in advanced services and infrastructure for the benefit of consumers.

Furthermore, the supposed inclusive and thorough plan development process failed to include the endorsement of consumer representatives.[50] As a result, the Missoula Plan shifts costs from carriers to consumers; guarantees historic revenue streams for the industry; and provides no guarantees of rate reductions or benefits to consumers. Despite ILECs' benefiting from billions of dollars in merger synergies, mis-assigned common network costs, and excessive returns on special access services, the

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48 / OPASTCO, at 2.

49 / *Id.*

50 / *See, e.g.,*, Illinois Attorney General, at 1 stating: "[o]ffered as a compromise between AT&T (and its affiliated companies) and rural carriers, the Plan leaves other stakeholders, including millions of residential and small business consumers, to bear unreasonable financial burdens associated with the Plan."

Missoula Plan would burden consumers with an increase to basic local exchange service. Numerous commenters, including at least one RBOC, highlight the fact that the Missoula Plan essentially shifts costs from carriers to consumers.[51]

Rate Counsel urges the Commission to review NASUCA's concerns related to the Missoula Plan's provisions for Access Shift revenue recovery and ILEC pricing flexibility. NASUCA's analysis shows that the Missoula Plan creates the opportunity for ILECs to establish different rates for "preferred" and "residual" customers.[52] As stated in various initial comments, low-income, non-urban, and low-volume residential consumers will bear the greatest burden under the Plan.[53] The South Carolina Office of Regulatory Staff and Cavalier *et al* correctly note that only those consumers who pay a significant amount in access charges (*i.e.,* make a lot of long distance calls) will benefit from the Plan, while all consumers will experience an increase in the SLC.[54] New York regulators comment:

> Consumers who place few toll calls tend to experience higher bills when such rate restructuring is undertaken, and these consumers are frequently the least able to afford the increase. Under the Plan, however, it is possible that even consumers who place significant numbers of long distance calls will not benefit from this proposal. Whether they do, and whether consumers as a whole benefit, depends on the extent to which intercarrier compensation rate reductions enjoyed by carriers are flowed through to their customers. In the past, when toll markets were dominated by two or three highly competitive independent carriers, regulators might reasonably have assumed that access charge reductions would flow

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[51] / *See*, *e.g.*, CTIA, at iii; NASUCA, at 2; Verizon, at 5; South Carolina Office of Regulatory Staff, at 5; Connecticut DPUC, at 2; Cavalier et al, at iii; COMPTEL, at 7. Verizon suggests that the plan "benefits mid-sized and rural LECs to the detriment of both consumers and other carriers, including other carriers serving rural consumers." Verizon, at 5.

[52] / NASUCA, at 52-54. *See*, *also*, Cavalier, *et al*, at 38.

[53] / Rate Counsel, at 8-14; Cavalier *et al*, at 38; NYDPS, at 5-6.

[54] / South Carolina Office of Regulatory Staff, at 5; Cavalier *et al*, at 38. COMPTEL further suggests many customers pay a flat rate for long distance and thus the "value of a reduction in long distance rates is diminishing." COMPTEL, at 8.

> through fairly quickly to customers as per minute toll rate reductions. Now that many providers offer flat rate packages of all-distance calling, there is little if any pressure to flow access reductions through to customers of those plans.[55]

As demonstrated in Rate Counsel's initial comments, the assertion that low-income consumers are "fully protected under the Missoula plan,"[56] is simply untrue.[57]

There is no guarantee that carriers will flow through the projected savings to any consumers, and such an event is highly unlikely, as noted by Rate Counsel and several other commenters.[58] As shown in Rate Counsel's initial comments and the comments of NASUCA and COMPTEL, as a result of the ILECs' dominance of the long distance market, and the prevalence of bundled packages, the flow-through is improbable.[59] Competition will not force carriers to flow through savings.[60] NASUCA notes that all of the SLCs are set at the caps "regardless of the current state of competition claimed by the ILECs in any particular area."[61] The Office of the Illinois Attorney General provides evidence that competitors in Illinois charge residential consumers a "SLC-like charge" undermining the argument that ILECs are price takers, not price leaders and will be forced to pass access charge reductions on to consumers.[62]

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55 / NYDPS, at 5-6.

56 / Missoula Plan, Exhibit 1.

57 / Rate Counsel, at 9-12.

58 / Rate Counsel, at 18; NASUCA, at 25-27, 34; South Carolina Office of Regulatory Staff, at 5; Illinois Attorney General, at 28; Cavalier *et al*, at 57.

59 / Rate Counsel, at 18-20; NASUCA, at 3; COMPTEL, at 8, discussing the prevalence of flat rate plans for long distance. See, also, Ad Hoc, at 6-7, discussing lack of competition in the special access market.

60 / Rate Counsel, at 13-14.

61 / NASUCA, at 4.

62 / Illinois Attorney General, at 5-7.

The analysis of consumer impacts submitted by numerous commenters in this proceeding entirely undermines the AT&T-developed economic benefits analysis (*i.e,*. the Clarke and Makarewicz Paper discussed further below). As stated in initial comments, "[t]he promise of benefits rings hollow, particularly when contrasted with the guaranteed revenue recovery mechanism that the Missoula Plan proponents advocate."[63] Indeed, NASUCA describes the purported consumer benefits shown in Exhibit 1 of the Missoula Plan as "totally deceptive and misleading."[64]

The Missoula Plan would disproportionately burden the end user.[65] As stated in initial comments, the Plan "constitutes a very large net loss to consumers and the U.S. economy as a whole, while providing ILECs a windfall."[66] The Missoula Plan would enable ILECs to raise end user charges in places with relatively little competition (for the "residual" customers) and to lower end user charges in places with relatively more competition (for the "preferred" customers).[67] As Cavalier explains, "the 'pricing flexibility' rules are no more than a recipe for ILECs to harm end user customers by permitting the ILECs to shift recovery to less competitive markets and customer segments."[68] On behalf of Illinois consumers, the Illinois Attorney General states that the Missoula Plan "leaves other stakeholders, including millions of residential and small

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[63] / Rate Counsel, at 20.

[64] / NASUCA, at 3. *See*, *also*, Cavalier, *et al*, at 5, stating "the Clark/Makarewicz study does not justify new programs to subsidize ILEC revenues."

[65] / Frontier, at 2-4.

[66] / Cavalier, at iii.

[67] / *See e.g.,* NASUCA, at 52-54; Time Warner Telecom, *et al.*, at 3, 14-15; Cavalier, at 12-13.

[68] / Cavalier, at 13.

business consumers, to bear unreasonable financial burdens associated with the Plan."[69] Others echo Rate Counsel's concern that the Missoula Plan would harm low volume users.[70]

Numerous parties to the proceeding argue that the Missoula Plan is unfair to consumers. For example, Comptel points out the mathematical reality that consumers ultimately foot the bill for guaranteeing revenues for ILECs. "[I]t is impossible for ILECs to maintain the same revenue stream and consumers pay less... Both the cost of the Restructuring Mechanism, as well as the increased SLC, will ultimately be born by consumers."[71] Comptel notes further that while Missoula Plan supporters claim that consumers will benefit from a *potentially* reduced long distance bill, usage of wireline long distance is actually on the decline. Therefore, the value to consumers of diminishing rates for long distance is negligible. Consumers are harmed by paying more for the less elastic services, and less for the more elastic services.[72] Florida regulators observe that the Missoula Plan "is contrary to the best interests of consumers because it shifts cost recovery to consumers through increases in SLC and the universal service fund without assurances of offsetting benefits."[73]

The South Carolina Office of Regulatory Staff notes that if the Missoula Plan is approved, telephone users in South Carolina will be funding service in other states. Because access charges in South Carolina are already lower than what the Plan suggests,

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[69] / Comments of the People of the State of Illinois, at 1. As these comments further demonstrate, the "Commission should reject the Missoula Plan as an unfair and unwarranted effort to use regulation to preserve and increase RBOC revenues by increasing a regulatory charge imposed on every telephone bill." *Id.*, at 3.

[70] / *See, e.g.,* Cavalier, at 38-39.

[71] / Comptel, at 7.

[72] / Comptel, at 8.

[73] / Florida Public Service Commission, at 2.

the Plan would actually raise access charges in South Carolina.[74] Furthermore, South Carolinians will receive no benefit commensurate with the increase in the SLC.[75]

The Texas Office of Public Utility Counsel echoes concerns regarding the "anti-consumer" impact of the Missoula Plan. "At the heart of the proposal lies an anti-consumer essence of the proposal is [sic] an increase in the subscriber line charge to $10, with no mandated, offsetting reduction to long distance rates. This results in a projected increase in bottom-of-the bill charges to consumers of approximately $4.5 billion."[76] Florida regulators state that the plan "would have the effect of sheltering some ILEC revenue streams from competition by shifting revenue recovery from ICC to fixed line item charges on consumers' bills," and concludes that they do "not believe that in a competitive market this is appropriate or in the best interest of consumers."[77] In summary, the initial comments resoundingly demonstrate that the Missoula Plan would jeopardize the Commission's goal of universal service.

The Missoula Plan would transfer improperly the regulation of intrastate services to the Commission, and, therefore, is incompatible with the Commission's goal of adopting a plan that is legally sound.

Many echo Rate Counsel's concerns regarding the improper abrogation of state authority contemplated by the Missoula Plan.[78] As initial comments demonstrate comprehensively, the 1996 Act did not transfer jurisdiction of switched access services

[74] / South Carolina Office of Regulatory Staff, at 3.

[75]/ *Id.*, at 5.

[76] / TX PUC at 3.

[77] / Florida Public Service Commission, at 6. *See, also*, MACRUC, at 3.

[78] / *See, e.g.,* NASUCA at 6, 38-41; Cavalier, at 66; NYDPS, at 3, 9-14; Connecticut DPUC, at 8-9; Illinois Attorney General, at 7.

for intrastate toll service from the states to the Commission.[79] The Commission should reject the Missoula Plan's attempt to abrogate state authority.[80] The Florida Public Service Commission describes aptly why the plan's proposed abrogation of state authority should be rejected,[81] and, similarly, mid-Atlantic regulators observe that the Missoula Plan "seemingly disregards the negotiation and arbitration procedures set forth in §§ 251 and 252 of the 1996 Act."[82] Rate Counsel urges the Commission to heed the following:

> The Telecommunications Act of 1996 explicitly preserves states' authority over in-state rates. 47 U.S.C. §152(b) and 251(d)(3). The Commission lacks the authority to preempt that right so that carriers can obtain a certain result in connection with their interstate rates. The Commission should reject the Missoula Plan because it does not reflect the proper relationship between the states and federal authority. It attempts to expand federal authority, at the expense of state authority and state responsiveness to local conditions.[83]

The Commission should reject the attempt by the Missoula Plan, or by any other intercarrier compensation proposal, to abrogate state authority.

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[79] / NASUCA, at 39-40.

[80] / *Id.*, at 41.

[81] / Florida Public Service Commission, at 3-4.

[82] / MACRUC, at 4.

[83] / Illinois Attorney General, at 7. Although Verizon states that the Commission "likely has the necessary authority to regulate intercarrier compensation for all traffic," Verizon also faults the Plan for relying on such a finding: "Proponents of the plans submitted to the Commission, including the Missoula Plan, have overstated the certainty of the Commission's existing authority. If the Commission is not confident of its authority to regulate intrastate rates it should be cautious in adopting any new rules that apply to that traffic." Verizon, at 4-5.

The Missoula Plan does not further the Commission's goal of economic efficiency.

Initial comments clearly demonstrate that the Missoula Plan proponents' estimate of economic benefits merits no weight.

In initial comments, Rate Counsel stated, among other things, regarding the Clarke/Makarewicz paper, "the foundation of the analysis of economic benefits is tenuous at best because the proponents do not provide any evidence to substantiate the fundamental proposition that carriers will lower long distance rates as a result of the Missoula Plan's proposed reduction in access charges."[84] Other initial comments identify this deficiency and other major flaws in the "economic benefits" paper submitted with the Missoula Plan.[85] The Missoula Plan offers consumers the *certainty* of increases in subscriber line charges and universal service surcharges and the *theoretical possibility* of long distance rate reductions. As Rate Counsel and others demonstrate in initial comments, there are no competitive forces that would cause carriers to flow through long distance rate reductions. California regulators recommend that the Commission require that the reductions in intercarrier compensation charges be passed through to end users, a recommendation which has merit because otherwise end users likely will not benefit from the reform.[86]

As Frontier states, "[t]here is absolutely no guarantee that the interexchange carriers will ever pass the windfall through to their customers."[87] The Commission

[84] / Rate Counsel, at 11.

[85] / *See, e.g.,* NASUCA, at 32-36; Time Warner Telecom, at 9; NCTA, at 6, footnote 17; Cavalier, at 5, 56-5; Florida Public Service Commission, at 2-3. *See also* "The True Economic Impact of the 'Missoula Plan' for Intercarrier Compensation: an Assessment Based on Reality," submitted with the comments of Alltel Communications, Inc., *et al.*

[86] / California PUC, at 22.

[87] / Frontier, at 5.

should not confuse a theoretical possibility of rate reductions with the likely scenario, whereby carriers would pocket the savings rather than share them with end users. Rate Counsel urges the Commission to dismiss outright any plan for intercarrier compensation "reform" that guarantees carriers new monies (paid by consumers) and offers consumers an unenforceable and improbable hypothetical rate reduction. In summary, as numerous initial comments amply demonstrate, the Commission should afford no weight to the Clarke/Makarewicz paper.

The Missoula Plan lacks supporting data that would enable the Commission to assess whether the proposed rate levels and rate structures are economically efficient.

As Rate Counsel observed in initial comments,[88] the Missoula Plan proponents neglected to submit any cost data that would enable regulators to assess whether the proposed rate structure sends proper economic signals. NASUCA aptly observes that the proposed terminating rate of 0.05 cents (*i.e.*, one-twentieth of a penny) per minute is a subsidized rate because it is less than the current reciprocal compensation rate of approximately 0.2 cents (*i.e.*, one-fifth of a penny) per minute.[89] Others similarly observe that the Missoula Plan lacks cost support for its proposed rates.[90]

The Missoula Plan glosses over key details, *e.g.*, as described by NASUCA, the Plan includes an "opaque" restructure mechanism.[91] Verizon also faults the plan for being laden with certain details but omitting others. For example, in discussing the Restructure Mechanism, Verizon states: "While the Plan details, at length, the manner in

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88 / Rate Counsel, at 18-19.

89 / NASUCA, at 58.

90 / Time Warner Telecom et al, at 7; Ad Hoc, at 9-10.

91 / NASUCA, at 4.

which money is to be paid *out* of the Restructure Mechanism, the Plan says nothing about how the Restructure Mechanism is to be administered or how money is to be paid *in* to the fund."[92]

Others fault the plan for not having cost-based rates.[93] The Ohio Public Utility Commission points out that the 1996 Act "requires reciprocal compensation rates to be established using a cost-based pricing methodology." However, as the Ohio PUC observes, the Missoula Plan proposes to violate this requirement by allowing the FCC to determine reciprocal compensation rates without reference to cost.[94] The New York Department of Public Service recognizes that different carriers may face different costs, and recommends that rates be adjusted accordingly.

> Both the NYDPS and the Commission have long supported moving intercarrier compensation rates toward cost. In order to achieve rate uniformity, the Plan would ignore cost differences between carriers, as well as differences between separate service areas of a single carrier. As a result, many providers would be required to significantly reduce intercarrier compensation rates, perhaps even below cost, and could only hope to recover lost revenues through higher end user charges and the Plan's "restructure mechanism" revenues. Those providers should not be forced to accept such a bargain in order to achieve artificial rate uniformity among service providers. Indeed, in a truly competitive marketplace, rate uniformity is an unlikely outcome. Rather than impose uniform national rates on carriers facing competition, the Commission should focus on affording carriers flexibility in order to allow them to respond to their own particular competitive pressures.[95]

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[92] / Verizon, at 27-28.

[93] / *See, e.g.,* California PUC, at 8, 12-13.

[94] / Ohio PUC, at 15.

[95] / NYDPS, at 4 (footnotes omitted).

Transit prices based on costs are essential to enable facilities-based competition to evolve and to achieve the Commission's goal of economic efficiency.

Initial comments demonstrate that the Missoula Plan would, without any justification, threaten competitors' access to cost-based transit.[96] In sharp contrast with the Missoula Plan, transit services instead should be available at cost-based rates.[97] Premature deregulation of transit, such as the Missoula Plan contemplates, would jeopardize facilities-based competition by eliminating the Section 252 negotiation and arbitration rights and timelines, and by shifting transit service beyond the scope of state public utility commissions.[98] Without transit services, CLECs would need to connect with every ILEC, CLEC, and CMRS provider in each local market, and, yet, ILECs do not confront effective competition in their provision of transit services.[99] In summary, the initial comments demonstrate thoroughly that the Missoula Plan thwarts the Commission's goal of economic efficiency.

Initial comments demonstrate unequivocally that the Missoula Plan is fundamentally flawed, and fails to achieve any of the goals set forth by the Commission.

Initial comments resoundingly reject the Missoula Plan for numerous reasons, many of which these reply comments identify as discussed above. The Missoula Plan distracts regulators, consumers, and industry members from critically important and

[96] / *See, e.g.,* Time Warner Cable, at 3, 19-21, Cavalier, at 14-20.

[97] / As Time Warner Cable aptly states: "Mandating cost-based transit service is a necessary component of any workable intercarrier compensation regime because competitors lack the resources to interconnect directly with every incumbent LEC, and doing so where traffic volumes are low would be highly inefficient." Time Warner Cable, at 19.

[98] / NCTA, at 10-12.

[99] / *Id.*, at 10-11.

integrally related efforts to re-initialize special access rates,[100] and to correct the presently flawed separations process. The Commission should reject the Missoula Plan.

Aside from the phantom traffic problem, the earlier urgency of unifying intercarrier compensation has dissipated.

The Commission should resist the temptation to adopt the Missoula Plan for lack of an immediately available alternative. Rate Counsel concurs with NASUCA's analysis:

> In order to push approval of the Plan, the proponents of the Missoula Plan have tried to create a sense of urgency and crisis surrounding the issue of ICC. With statements like "The ICC system is broken!" the proponents urge scant review and quick approval of the Missoula Plan. The claims that there is a crisis in ICC do not hold up. In fact, the environment within which this proceeding was initiated by the FCC in 2001 has completely changed.[101]

Rate Counsel agrees with NASUCA that the Commission need not take immediate action to "save" the intercarrier compensation regime. While it is incumbent upon the Commission to reform the existing intercarrier compensation regime, changes since 2001 suggest that the situation the Commission was addressing in the 2001 NPRM is no longer as pressing.[102] As noted by NASUCA, "2001 represented the 'high water mark' for usage on the old circuit-switched network."[103] A large portion of dial-up traffic on the public switched telephone network has moved to broadband and thus the ISP-bound

[100]/ *See, e.g.,* concerns raised by the General Accountability Office regarding the special access market. United States Government Accountability Office, Report to the Chairman, Committee on Government Reform, House of Representatives, FCC Needs to Improve Its Ability to Monitor and Determine the Extent of Competition in Dedicated Access Services, GAO-07-80, November 2006.

[101] / NASUCA, at 7.

[102] / *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Notice of Proposed Rulemaking*, Rel. April 27, 2001, at paras. 11, 66-67.

[103] / NASUCA, at 10.

traffic issues have dissipated.[104] Verizon similarly suggests that the environment has changed "dramatically" and adds that the Missoula Plan's focus on exchanging circuit-switched traffic fails the "forward-looking standard."[105]

The telecom industry has changed significantly since 2001, when the Commission initiated its proceeding.[106] The skyrocketing usage and the line increases of the late 1990s (corresponding with initial uses of the Internet) first leveled off and then declined as customers migrated to DSL, broadband, VoIP and wireless, displacing demand for additional lines and local and interexchange network usage. The problem that the Commission seeks to solve is diminishing over time.[107]

Although OPASTCO claims that "the Plan effectively and comprehensively reforms the existing intercarrier compensation rules by providing carriers with a more rational and stable means of recovering network costs,"[108] the Plan actually presents a convoluted set of rules that adjust each year, and adjust separately for different types of carriers. OPASTCO's depiction of the Missoula Plan as "rational and stable" is inconsistent with the Plan's elements. OPASTCO continues, "At the same time, the Plan appropriately recognizes the differences between carriers of different size and regulatory

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104 / The Pew Internet & American Life Project's data update as of April, 2006 indicates that 34% of home Internet users used a dial-up connection while 62% used high-speed access to the Internet. Available at http://www.pewinternet.org/trends.asp; A Pew Internet & American Life Project report notes this trend too, stating that dial-up access to the Internet has decreased between 2002 and 2006. John Horrigan, Associate Director for Research, *Home Broadband Adoption 2006*, Pew Internet American Life Project, May 28, 2006, at 9; *See*, *also*, NASUCA, at 13.

105 / Verizon, at 2.

106 / NASUCA, at 7-15.

107 / *Id.,* at 13.

108 / OPASTCO, at 2.

classification."[109] OPASTCO fails, however, to support its contention that some carriers deserve preferential treatment over others.

While OPASTCO claims that "the Plan effectively resolves the many intercarrier compensation issues that have been vexing the industry and the Commission for some time now, and does so in a comprehensive fashion,"[110] the Plan actually leaves many details (e.g., contributions to the Restructure Mechanism) incomplete. In addition, the fact that *so many* commenters have *so many* problems with the Plan is evidence enough that the Plan does *not* "effectively resolve" intercarrier compensation issues.

OPASTCO fails to substantiate the following concerns that it raises:

> Rural RoR ILECs presently recover a significant portion of their network costs from intercarrier compensation. It follows then, that if these carriers were not permitted to recover all of the lost revenue from the lowering of intercarrier rates, investment in infrastructure and, in particular, the continued deployment of advanced services, would slow considerably. In some instances, advanced services deployment may need to be halted entirely. In addition, if rural RoR ILECs did not have the ability to achieve full cost recovery, it would make the capital markets far more wary about making financing available to rural carriers.[111]

The Missoula Plan fails as a foundation for future intercarrier compensation reform efforts.

Numerous initial comments demonstrate amply that, as Time Warner Telecom, *et al* contend, the Commission should reject the Missoula Plan not only as a solution, but as a foundation for future discussions about intercarrier compensation reform.[112] Rate Counsel respectfully disagrees with California regulators' assertion that the Missoula

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[109] / *Id.*

[110] / *Id.*, at 3.

[111] / *Id.,* at 6-7.

[112] / Time Warner Telecom, *et al*, at 2. *See,* however, People of the State of California and the California Public Utilities Commission, indicating that the Missoula Plan is a "good starting point for reform." *Id.*, at 2.

Plan "is a commendable framework that may start as a starting point."[113] As numerous initial comments and these reply comments demonstrate, the Missoula Plan is not salvageable and should be rejected in its entirety. In addition to its numerous other flaws, as initial comments demonstrate, the Missoula Plan fails to achieve its purported objective of establishing a unified intercarrier compensation plan.[114]

Commenters have demonstrated why the phantom traffic solution put forth by the Missoula Plan proponents is unworkable and is a poor substitute for Commission adoption of clearly defined policy.

Subsequent to initial comments being filed in this proceeding, the Commission issued a public notice seeking comment on the Missoula Plan phantom traffic interim process and call detail records proposal.[115] Missoula Plan supporters filed a written *ex parte* on November 6, 2006, detailing an interim process to address phantom traffic and the creation and exchange of call detail records.[116] As the comments in response to both the original Missoula Plan public notice and the public notice seeking comment on the "phantom traffic solution" demonstrate, both the interim and uniform process outlined in the Missoula Plan phantom traffic interim process supplemented in the November 6, 2006, *ex parte* fail to solve many of the causes of phantom traffic, shift burdens from

[113] / California PUC, at 22

[114] / *See, e.g.,* Time Warner Cable, at 7; NASUCA, at 17; Time Warner Telecom, *et al*., at 4-5; NCTA at 7-8, Cavalier, at v, 47-49; Florida Public Service Commission, at 3; MACRUC, at 4; Verizon, at 8.

[115] / *Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal*, Public Notice, CC Docket No. 01-92, DA 06-2294 (WCB, November 8, 2006). *See* 71 Fed. Reg. 67509. The reply comment deadline was extended from December 22, 2006 to January 5, 2007. *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Order*, Rel. December 20, 2006.

[116] / Letter from Supporters of the Missoula Plan to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed November 6, 2006) ("Missoula Plan Nov. 6 *Ex Parte*"). *See*, *also*, FCC Public Notice, "Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal," DA 06-2294, November 8, 2006.

carriers that terminate traffic, and implicitly implement policy changes on issues that the Commission has not yet addressed explicitly.

Based on its review of comments, Rate Counsel continues to support efforts to ensure that carriers pay for their use of the public switched telephone network ("PSTN"), and timely action by the Commission to address the phantom traffic problem. However, it is evident that there is little agreement as to the extent and causes of phantom traffic. Finally, Rate Counsel urges the Commission to heed the warnings of many commenters that phantom traffic be defined properly, and also urges the Commission to resist the efforts of the Plan supporters to make policy with regard to VoIP telephony under the guise of an industry solution for phantom traffic. The Missoula Plan phantom traffic solution fails to address phantom traffic adequately, seeks to make new policy, and should be rejected by the Commission for the reasons discussed in detail in Rate Counsel's initial and reply comments addressing the phantom traffic interim process and call detail records proposal.[117]

Rate Counsel continues to support Commission action to ensure that all carriers pay for originating and terminating traffic and therefore supports the Commission's expedient efforts to resolve the phantom traffic problem, whereby, either by objective or oversight, some carriers are failing to pay their fair share of the use of the public switched telephone network. Rate Counsel also continues to be concerned that some carriers are purposefully gaming the system to avoid access charges. Regulatory uncertainty may allow some carriers to engage in arbitrage and thereby to avoid paying for use of the public switched network. Carriers' failure to pay their fair share could lead to higher end

[117] / *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Comments of the New Jersey Division of Rate Counsel, December 7, 2006 and Reply Comments of the New Jersey Division of Rate Counsel, January 5, 2007.

user rates for consumers. However, the Commission should not simply rubber stamp the Missoula Plan approach to "phantom traffic."

Rate Counsel supports a stand-alone solution to phantom traffic only if that solution is competitively neutral and workable. Rate Counsel also supports Commission adoption of clear policy with respect to the applicability of access charges to VoIP traffic. However, neither the Missoula Plan nor the interim Phantom Traffic Solution meets these goals. Sprint Nextel claims that the interim process is "ineffective and a distraction from the larger issues plaguing the intercarrier compensation system."[118] Rate Counsel agrees, much like the Missoula Plan itself, the details are scant in some areas, confusing in others and the plan is focused on shifting the burden of accounting for traffic away from terminating ILECs and in creating policy with respect to VoIP traffic. Finally, the phantom traffic solution attempts to merge two distinct traffic identification issues: that of originating carrier identity and that of jurisdiction (or applicability of access charges). Rate Counsel agrees with Sprint Nextel's conclusion that "it is entirely unclear why the FCC should devote resources to the establishment and enforcement of rules that fail to address the underlying cause of a large portion of phantom traffic."[119]

III. ALTERNATIVE PROPOSALS FOR REFORMING INTERCARRIER COMPENSATION

Several themes emerge from the initial comments that should guide the Commission's design of any unified intercarrier compensation plan. As an initial matter, end users should not pay the price tag for unifying intercarrier compensation, nor should they be expected to rely on improbable and unenforceable predictions of rate reductions.

[118] / Comments of Sprint Nextel, December 7, 2006, at 1.

[119] / *Id.*, at 6.

As initial comments demonstrate, ILECs are entering new and lucrative lines of business, and have failed to demonstrate any entitlement to an historic level of revenues for regulated services.[120] Furthermore, any proposal ultimately should unify terminating rates based on total element long run incremental cost.[121]

Furthermore, because ILECs possess market power in their provision of transit services, just and reasonable cost-based rates for transit are essential to the continuing development of local competition. As these comments demonstrate in detail above, transit rates based on cost and subject to state regulatory approval are essential components of any plan to overhaul intercarrier compensation.

The Commission should slow down the transition to protect carriers and consumers better.[122] Incremental steps, such as those encompassed by NASUCA's proposal, are appropriate.[123]

IV. CONCLUSION

The ballyhoo surrounding the Missoula Plan greatly exaggerates its significance and potential usefulness to resolving intercarrier compensation challenges. Rate Counsel urges the Commission to reject the Missoula Plan, in its present version, and furthermore, as a foundation for future discussion. Instead, the Commission should focus on NASUCA's reasoned proposal for gradual transition to true reform of intercarrier compensation, which furthers the Commission's goals of competitive and technological

[120] / *See, e.g.*, NCTA, at 19, 33.

[121] / Time Warner Telecom, *et al*, at 7.

[122] / Frontier Communications, at 11-12.

[123] / NCTA, at 3

neutrality, preservation of universal service, compatibility with the Commission's legal authority, and economic efficiency.

Respectfully submitted,

RONALD K. CHEN
PUBLIC ADVOCATE

SEEMA M. SINGH, Esq.
DIRECTOR AND RATE COUNSEL

By: ____________________
Christopher J. White, Esq.
Deputy Public Advocate